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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/484,140	01/18/2000	Jim Beck III	00EC004/77529	9326
24628	7590	06/15/2005	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				OPSASNICK, MICHAEL N
ART UNIT		PAPER NUMBER		
		2655		

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/484,140	BECK, JIM	
	<b>Examiner</b> Michael N. Opsasnick	<b>Art Unit</b> 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 07 January 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/18/05

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (5999965) in view of Lennig et al (5479488) in view of Gillick et al (6029124) in further view of Eisdorfer et al (5475733).

As per claims 1,7,13,14,19,20,25, Kelly (5999965) teaches an ACD (col. 3 lines 40-50) detecting and routing calls (col. 12 lines 25-55), with optional voice input (col. 5 lines 58-62). Kelly also teaches call distribution based on the language of the call (col. 12 lines 50-55). Kelly (5999965) does not go into the specifics of the call routing based on language. Lennig et al (5479488) teaches a call distributor comprising detecting a call (col. 4 line 13 – col. 5 line 14), sampling an audio greeting of the call (col. 6 lines 19-43), using lexemes based on language, location, and business name based upon the input from the user after prompting (col. 5 lines 53-61 → the user's first response to a prompt is considered to be the 'initial', or first response of the user), and fitting a plurality of audio templates to the sampled greeting of the call (as comparing and calculating probabilities

in the comparison process -- figs 3a,3b; col. 6 lines 35-42, col. 8 line 10 – col. 10 line 35). Lennig et al (5479488) teaches language determination during the call processing (col. 6 lines 1-18, Fig. 3a, subblocks 302-308). Therefore, it would have been obvious to one of ordinary skill in the art of call processing to modify the teachings of Kelly (5999964) with audio call sampling because it would advantageously note call features that could be added to the caller's profile (Lennig, figs 3, col. 8 line 10 – col. 10 line 35). The combination of Kelly (5999965) in view of Lennig et al (5479488) teaches customer based language selection (Lennig et al (5479488)), and not based upon speech recognition. However, Gillick et al (6029124) teaches a language selection technique based upon recognized input speech (col. 19 lines 30-41). Therefore, it would have been obvious to one of ordinary skill in the art of language selection to modify the teachings of combination of Kelly (5999965) in view of Lennig et al (5479488) with automated speech recognized based language selection because it would advantageously provide an improved performance in the automated recognition aspect of the system (Gillick, col. 7 lines 36-52).

The combination of combination of Kelly (5999965) in view of Lennig et al (5479488) in view of Gillick et al (6029124) teaches an ACD performing automatic language recognition and routing the call based on language, but does not explicitly teach routing the call to an agent based upon the language of the call, however, Eisdorfer et al (5475733) teaches identifying the language of the user and routing to the call agent associated with that language (Fig. 2, col. 2 lines 20-30). Therefore, it would have been obvious to one of ordinary skill in the art of call routing to adapt the combination of

Kelly (5999965) in view of Lennig et al (5479488) in view of Gillick et al (6029124) with language based call routing to an agent because it would adapt their system for multilingual support, as well as efficiently using communication assistant resources (Eisdorfer, col. 2 lines 4-12).

As per claims 2,8,26,27 Gillick teaches audio language templates (col. 7 lines 40-49).

As per claims 3,9, Lennig et al (5479488) teaches routing the call based on language of the call (Fig. 3a, subblock 303,304).

As per claims 4,10, Lennig et al (5479488) teaches operator agent selection (fig. 3b, subblocks 322-324).

As per claims 5,11, Lennig et al (5479488) teaches default branching to the operator when language and recognition is not clarified (fig. 3b, subblocks 322,324).

As per claims 6,12, Gillick teaches multiple language stored samples (col. 19 lines 35-40).

As per claims 15,21,28 Lennig et al teaches recognizing the user as a repeat customer and accessing information about the repeat user (col. 4 lines 47-49, wherein the

stored information about a customer implies a repeat user, ani – col. 5 lines 10-14, and the language (col. 5 lines 5-10). (Kelly also teaches routing based ani -- col. 3 lines 45-50).

As per claims 16, 22, Lennig et al teaches storing an associated name of the user (col. 4 lines 45-50, referring back to col. 3 lines 49-53).

As per claims 17,23,31,32 Lennig et al teaches marketing information with the customer (col. 4 lines 56-60 -- lennig teaches billing data, which monitors usage and sales numbers -- which is component of marketing data).

As per claims 18,24,29,30 Lennig et al teaches determining based on localities (col. 10 line 63 – col. 11 line 4).

As per claims 29 and 30, Kelly (5999965) teaches name and geographic locations information (col. 3 lines 50-65).

#### ***Response to Arguments***

3. Applicant's arguments filed 09/484140 have been fully considered but they are not persuasive. Applicant's arguments presented on pages 3-5 of the response focus on the claim elements pertaining to the portion of the sampled call is the initial greeting of the call. Applicant's then argue that the prior art does not teach these claim elements. Examiner disagrees and points to the referred to sections of Lennig et al (col. 4 line 14 – cool 5 line 13) teaching a

voice processing system that takes input speech from the user as soon as the user starts to speak in response to a prompt (also referring to US Patent # 4797910); examiner notes that Lennig et al (and other well known speech recognition systems) start to sample the user's speech as soon as the user starts to talk into the system; this particular user's input is the initial response of the user to the system (and can be construed as 'a greeting', or response, to the prompt). The type of call being executed (in the case of Lennig et al) is of directory assistance. The type of call (as addressed by the arguments presented by the applicant with respect to "initial greeting") pertains to "out dialing" of call centers; however, the current claim language pertains to a method (or system) of routing and detection of a call with a user, and does not specify an "out dialing" type of call. Rewriting the claim language to 1) direct the claim scope to an "out dialing" type of call and 2) further specifying within the sampling an initial audio portion of the call, detecting and sampling a greeting within the initial audio portion; would overcome the prior art of record.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
**or faxed to:**  
(703) 872 9314,  
(for informal or draft communications, please label "PROPOSED" or  
"DRAFT")  
Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

**6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Wayne Young, can be reached at (571)272-7582. The facsimile phone number for this group is (571)272-7629.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571)272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno

6/11/05

W. R. YOUNG  
PRIMARY EXAMINER